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Alabama Court of Criminal Appeals

OCTOBER TERM, 2022-2023

CR-21-0222

Charles David Merchant

v.

State of Alabama

Appeal from Lamar Circuit Court
(CC-03-111.60)

COLE, Judge.

AFFIRMED BY UNPUBLISHED MEMORANDUM.

Windom, P.J., concurs. Minor, J., concurs in the result. Kellum, J.,
dissents, with opinion. McCool, J., recuses himself.

KELLUM, Judge, dissenting.

A petition for a writ of mandamus, not a Rule 32, Ala. R. Crim. P., petition for postconviction relief, is the proper avenue by which to challenge a trial court's order directing the Alabama Department of Corrections to withhold from an inmate's trust-fund account any and all economic-impact payments received by the inmate pursuant to the Coronavirus Aid, Relief, and Economic Security Act so that those funds can be used to pay any restitution, fines, fees, or costs owed by the inmate. See Ex parte Reno, [Ms. CR-20-0512, Feb. 11, 2022] ___ So. 3d ___ (Ala. Crim. App. 2022). Instead of affirming the circuit court's judgment summarily dismissing Charles David Merchant's Rule 32 petition, I would treat this appeal as a petition for a writ of mandamus and deny the petition. Therefore, I respectfully dissent.